

REMARKS

This application has been reviewed in light of the Office Action mailed December 11, 2006. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 19 – 26 and 44 – 50, 52 – 56, 58 – 62 and 64 – 66 are pending in the application with Claim 19 – 26 and 44 – 48 having been previously withdrawn from consideration. Of the remaining elected claims, namely Claims 49, 50, 52 – 56, 58 – 62 and 64 – 66, Claims 49, 55 and 61 are in independent form. By the present amendment, Claim 49 is amended.

Initially, Applicants thank the Examiner for indicating that Claims 55, 56, 58 – 62 and 64 – 66 are allowed over the prior art of record.

Claim 49 has been amended to recite: “...transforming a perceptual representation of the audio signal into a learning representation of the audio signal; transmitting the learning representation to a multi-stage classifier, the multi-stage classifier comprising: a first stage having a plurality of support vector machine classifiers, each support vector machine classifier trained to identify one out of a plurality of audio classification categories and generate a metalearner vector value reflecting how closely the audio signal conforms to the one out of the plurality of audio classification categories, and a final stage having a metalearner classifier, the metalearner classifier using the generated metalearner vector to classify the audio signal into one out of the plurality of audio classification categories; and generating classification category information for the audio signal based on results produced by the metalearner classifier.” The amendment to Claim 49 are submitted for clarification of the claimed subject matter, no new subject matter is introduced into the disclosure by way of the present amendment.

I. Rejection of Claims 49, 50 and 52 – 54 Under 35 U.S.C. § 101

Claims 49, 50 and 52 – 54 are rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

The Examiner contends that the method recited in Claim 49, although seemingly related to patentable processes, is directed towards non-functional descriptive material (i.e., a computer program description) by virtue of Claim 55, which indicates that the steps are part of a computer program stored on a computer readable medium.

However, the Examiner is improperly narrowing the scope of Claim 49 by limiting the claimed invention to only a computer program where no such limitation exists within independent Claim 49 or even the claims depending from this independent claim. Each independent claim must be read on its own, without regard to the limitations recited in another independent claim.

Claim 49, as currently presented, is not limited to a computer program any more than any other claim reciting a method for performing a function. In fact, Claim 61 recites structural limitations performing identical functions as Claim 49. Therefore, Applicants respectfully submit that the rejection under 35 U.S.C. § 101 is improper.

Moreover, the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (hereinafter, “Interim Guidelines”) explicitly states that lack of a recitation of a “computer-implemented” process is not determinative as to whether the claim is directed to statutory matter under 35 U.S.C. § 101. “Therefore, USPTO personnel should no longer rely on the machine implemented test to determine whether a claimed invention is directed to statutory subject matter.” (See: Interim Guidelines, Annex III, section E, subsection d).


Consequently, by virtue of Examiner's own admission on page 2, section 3, paragraphs 2 – 3, and reasons provided for allowance of Claims 55 and 61, the limitations recited in Claim 49 are statutory subject matter under 35 U.S.C. § 101, since Claim 49 recites similar processes as Claims 55 and 61. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 49, 50 and 52 – 54 under 35 U.S.C. § 101.

CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 49, 50, 52 – 56, 58 – 62 and 64 – 66 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



Paul J. Esatto, Jr.
Registration No. 30,749

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza - Ste. 300
Garden City, New York 11530
(516) 742-4343

PJE:DAT:ae